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Attorneys for Defendants Council on American-Islamic Relations, Inc., Council on American Islamic Relations Action Network, Inc., and Council on American Islamic Relations of Santa Clara, Inc.

IN THE UNITED STATES DISTRICT COURT  
THE NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

MICHAEL SAVAGE,  
Plaintiff,

**V.**

COUNCIL ON AMERICAN-ISLAMIC  
RELATIONS, INC., COUNCIL ON  
AMERICAN ISLAMIC RELATIONS ACTION  
NETWORK, INC., COUNCIL ON AMERICAN  
ISLAMIC RELATIONS OF SANTA CLARA,  
INC., and DOES 3-100,

Defendants.

Case No. CV07-06076 SI

**DECLARATION OF CORYNNE  
MCSHERRY IN SUPPORT OF MOTION  
FOR AWARD OF ATTORNEYS' FEES  
AND COSTS**

Date: October 3, 2008

Time: 9:00 a.m.

Honorable Susan Illston

1. I am an attorney for the Defendants in this matter and a member in good standing of the California State Bar, and am admitted to practice before this Court. I have personal knowledge of the matters stated in this declaration. If called upon to do so, I am competent to testify to all matters set forth herein.

2. I have been a staff attorney at EFF since 2005. I hold a J.D. from Stanford Law School and a M.A. and Ph.D from the University of California, San Diego.

3. Prior to joining EFF, I was a litigator with Bingham McCutchen, LLP (2002-2005). I have published widely on intellectual property issues, including book on intellectual property and academic freedom (*Who Owns Academic Work? Battling for Intellectual Property*, Harvard University Press, 2001).

4. At EFF, I specialize in intellectual property litigation and have served as counsel to plaintiffs and defendants in numerous copyright fair use cases, including *Lenz v. Universal*, N.D. Cal Case No. C 07-03783-MEJ and *Doe v. Geller et al*, N.D. Case No. 3:07-CV-02478-VRW.

5. My 2007 hourly rate, which is the hourly rate for purposes of this matter, is \$350 per hour.

6. My rates are well within the prevailing hourly rates in the San Francisco Bay Area for lawyers of comparable education, expertise, and experience who handle matters of the type involved in this litigation.

7. EFF has been paid its attorneys' fees at its prevailing hourly rates in other cases. Courts have found EFF's rates to be reasonable in several recent cases. In *Elec. Frontier Foundation v. Office of the Director of National Intelligence*, No. 07-05278 SI, 2008 U.S. Dist. LEXIS 44050 (N.D. Cal. June 4, 2008), for example, this Court found EFF's 2007 hourly rates to be reasonable. In *Apple v. Does* (Santa Clara Superior Ct., Case No. 1-04-CV-032178), EFF was awarded attorneys' fees in accordance with their lawyers' 2006 and 2007 rates. *Id.* In *OPG v. Diebold*, 337 F. Supp. 2d 1195 (N.D. Cal. 2004), EFF attorneys were paid fees after a summary

1 judgment victory at the organization's 2004 hourly rates. In addition, in *In re Sony BMG CD*  
 2 *Technologies Litig.* (S.D.N.Y. Case No 1:05-cv-09575-NRB), my fees were paid at my hourly  
 3 rates as part of the settlement of the action in June 2006. *Id.*

4 8. After a careful review of my time records on the case which were recorded  
 5 contemporaneously as the work was performed, I estimate the minimum number of hours I spent  
 6 on this case as follows:

<u>Date</u>	<u>Task</u>	<u>Hours</u>
01/03/08	Confer with Mr. Zimmerman and Mr. von Lohmann re: case strategy and next steps	.8
01/30/08	Review and revise motion for judgment on pleadings.	1.0
08/27/08	Research re: motion for attorneys' fees; Review and Revise motion for attorneys' fees.	2.0
08/27/08	Review and Revise motion for attorneys' fees.	1.5
=====		
Total hours:		5.3

11. In total, I spent no fewer than 5.3 hours on this litigation. At my hourly rates, my  
 total fees are \$1,855.00.

I declare under penalty of perjury of the laws of the State of California that the foregoing is  
 true and correct to the best of my knowledge and belief. Executed August 28, 2008 in San  
 Francisco, California.

/s/ Corynne McSherry  
 Corynne McSherry